

VZCZCXYZ0031
RR RUEHWEB

DE RUEHCV #0564/01 0741457
ZNR UUUUU ZZH
R 151457Z MAR 07
FM AMEMBASSY CARACAS
TO RUEATRS/DEPT OF TREASURY
INFO RUEHC/SECSTATE WASHDC 8139

UNCLAS CARACAS 000564

SIPDIS

SIPDIS

TREASURY FOR INTERNATIONAL TAX COUNSEL HHICKS
KLINGENSMITH AND NGRANT

E.O. 12958: N/A

TAGS: [EFIN](#) [ECON](#) [VE](#)

SUBJECT: NOTIFICATION OF CHANGES TO LOCAL TAX LAW PURSUANT
TO BILATERAL TAX TREATY

¶1. (U) This is an action request; please see paragraph 4.

¶2. (U) Ambassador Brownfield received a letter on March 9 from the Superintendent of Customs and Taxation (SENIAT) informing Post of partial reforms to Venezuelan income tax law in 2006 and 2007. SENIAT delivered this letter pursuant to Article 2.2 of the Convention between the Government of the United States of America and the Government of the Republic of Venezuela for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion, with respect to Taxes on Income and Capital (the Bilateral Tax Treaty). Article 2.2 (erroneously referred to in the letter as Article 2.4) of the Bilateral Tax Treaty requires the competent authorities of the contracting states to notify each other of any significant changes to tax law. The text of the letter is translated below (para 3).

Translation of Letter

¶3. (U) Begin translation of letter No.2305 from SENIAT to Ambassador Brownfield dated March 8, 2007 (Post received the letter March 9):

I would like to refer you to the Convention between the Government of the Republic of Venezuela and the Government of the United States of America to avoid double taxation with respect to taxes on income and capital.

In conformity with the dispositions in Article 2, Paragraph 4, of the mentioned Convention, find annexed (Spanish and English versions) of the changes adopted in our Income Tax Law. In this regard, I request your cooperation in delivering the referenced information to the competent authorities in the Government of the United States of America.

Without any other particular agenda, I take this occasion to reiterate my highest consideration and esteem.

Jose Gregorio Vielma Mora
National Customs and Tax Superintendent

Annex: Partial Reforms of the Income Tax Law

Year 2007

The Partial Reform of the Income Tax Law was published in Official Gazette No. 38.628 of February 16, 2007.

Such reform includes a new article numbered 118, which

establishes that the interest paid directly or indirectly to persons considered as related parties pursuant to the terms of the Second Section of Chapter III of Title VII of the Law, shall be deductible only so far as the amount of the debts contracted directly or indirectly with related parties, added to the amount of the debts contracted with independent parties does not exceed the net equity of the taxpayer.

For purposes of determining whether the amount of the debts exceeds the net equity of the taxpayer, the annual average balance of debts held by the taxpayer with independent parties will be subtracted from the annual average balance of the taxpayer's net equity, which shall be calculated by using the method indicated therein.

The reform also establishes that the amount of the debts contracted directly or indirectly by the taxpayer with related parties that exceeds the annual average balance of the taxpayer's net equity shall receive net equity treatment for all purposes of the Law.

Meanwhile, article 187 is modified and is now 188, it establishes that for purposes of the regular adjustment for inflation, that gains or losses caused by adjusting assets or liabilities denominated in foreign currency or with clauses for the possibility of adjustment based on exchange variations, shall be considered as performed in the fiscal year in which they are deemed, collected, or paid, whichever occurs first.

The present Law entered into force on its publication in the Official Gazette and shall apply to those fiscal years beginning during its period in force.

Year 2006

The Partial Reform of the Income Tax Law was published in Official Gazette No. 38.529 of September 25, 2006.

Such reform modifies Article 11 of the Law, establishing that those taxpayers engaged in exploitation of hydrocarbons and related activities, such as refining and transport, purchase or acquisition of hydrocarbons and derivatives for their exploitation, shall be subject to tax at a proportional tax rate of 50%. Excluded from this regime are those companies carrying out integrated activities or not, of exploration and exploitation of non associated gas, of processing, transport, distribution, storage, marketing and export of the gas and its components, that are exclusively engaged in the refining of hydrocarbons or improvement of heavy and extra heavy crude oils.

Likewise, the reform derogated Article 56 of the Law, which referred to rebates for new investments represented by fixed assets made in the country by those taxpayers engaged in the exploitation of hydrocarbons and related activities.

The reform Law also modified Article 57, now Article 56 of the Income Tax Law, indicating that a 10% rebate is granted on the amount of new investments made in the five years following the entry into force of the Law, such as industrial and agriculture activities, construction, electricity, telecommunications, science and technology but expressly excluding from this tax benefit those taxpayers engaged in the exploitation of hydrocarbons and related activities. 75% rebate is granted on the amount of new investments made on tourism services. 80% rebate is granted on the amount of new investments made in agriculture and forestry activities. Lastly, an additional 10% rebate is granted on the amount of new investments represented by fixed assets, programs and other activities related to prevent the pollution of the environment.

End translation of letter.

14. (U) Post requests the Department of Treasury to review the implications of these tax changes to the Bilateral Tax Treaty and provide Post with an appropriate response to this letter,

if warranted. Post appreciates Treasury's assistance. POC
is Economic Officer David Harrison, email:
harrisond@state.gov, phone: 58-212-907-8412.

BROWNFIELD